

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ALLEGED FAILURE OF RED BARN WASTE)	CASE NO.
MANAGEMENT, LLC TO FILE REQUIRED)	2017-00033
REPORTS)	

ORDER

On February 6, 2017, the Commission ordered Red Barn Waste Management, LLC (“Red Barn”) to 1) file no later than February 24, 2017, its gross operating reports and annual reports for the 2011, 2012, 2013, 2014, and 2015 calendar years, and 2) appear on March 28, 2017, to show cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140 and KRS 278.230(3).

Red Barn did not file any of the required reports. The March 28, 2017 hearing proceeded as scheduled. No representative appeared on behalf of Red Barn.

On April 7, 2017, Red Barn submitted to the Commission an application for approval pursuant to KRS 278.020(5) to transfer ownership and control of Red Barn’s wastewater collection system and package wastewater treatment plant in Mercer County, Kentucky, to Mercer County Sanitation District (“Mercer Sanitation”).¹ Red Barn proposed to transfer all of its assets to Mercer Sanitation for consideration of \$1.00. Upon approval of the proposed transfer, Mercer Sanitation would assume ownership and operation of

¹ See Case No. 2017-00165, *Application of Red Barn Waste Management, LLC to Transfer Ownership and Control to the Mercer County Sanitation District* (Filed Apr. 24, 2017). After Red Barn cured certain deficiencies, the Commission accepted the Application for filing on Apr. 24, 2017.

Red Barn's assets and would provide service to Red Barn's former customers; Red Barn would no longer operate or exist as a utility.

As a result of the evidence and record of the March 28, 2017, hearing in this case, the Commission issued an Order on May 11, 2017, finding, among other things, that Red Barn had willfully failed to submit the reports required by KRS 278.230(3), 807 KAR 5:006, Section 4(2), and KRS 278.140, for the 2011, 2012, 2013, 2014, and 2015 calendar years. The Commission's May 11, 2017 Order assessed to Red Barn, pursuant to KRS 278.990(1), a penalty of \$12,500.00 for its willful failure to comply with KRS 278.230 and 807 KAR 5:006, Section 4(2), as well as a penalty of \$12,500.00 for its willful failure to comply with KRS 278.140. The Commission's May 11, 2017 Order, however, suspended the penalties indefinitely pending approval and successful completion of the transfer of Red Barn to Mercer Sanitation. The May 11, 2017 Order further stated that upon completion of the transfer, the Commission would waive the penalties.

On May 31, 2017, the Commission issued an Order in Case No. 2017-00165 that, among other things, approved the transfer of Red Barn's wastewater collection system and package wastewater treatment plant in Mercer County, Kentucky, to Mercer Sanitation, subject to certain conditions.² The Commission's May 31, 2017 Order noted that, as a sanitation district, Mercer Sanitation is not subject to the Commission's jurisdiction over rates and service³ such that, upon the transfer, Red Barn's system and its customers would no longer be subject to the Commission's jurisdiction. The

² Case No. 2017-00165, *Application of Red Barn Waste Management, LLC to Transfer Ownership and Control to the Mercer County Sanitation District* (Ky. PSC May 31, 2017).

³ *Id.* at 5 (citing *Boone County Water and Sewer District v. Public Service Comm'n*, 949 S.W.2d 588 (Ky. 1997)).

Commission's May 31, 2017 Order further directed Red Barn to notify the Commission in writing of the closing of the transaction with Mercer Sanitation within ten days of the closing.⁴

The Commission has received notice of the closing of the transfer of Red Barn's wastewater collection system and package plant in Mercer County, Kentucky, to Mercer Sanitation.

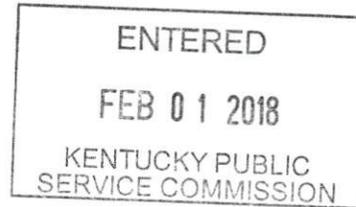
Because Red Barn has transferred its wastewater collection system and package plant in Mercer County, Kentucky, to Mercer Sanitation, consistent with the Commission's May 11, 2017 Order, the Commission finds that Red Barn has satisfied the Commission's May 11, 2017 Order, that the penalties assessed in that Order should be waived, and that this case should be dismissed.

IT IS THEREFORE ORDERED that:

1. Red Barn has satisfied the Commission's May 11, 2017 Order;
2. The penalties assessed against Red Barn in the Commission's May 11, 2017 Order are hereby waived;
3. This case is dismissed with prejudice and removed from the Commission's active docket; and
4. This is a final and appealable order.

⁴ *Id.* at 6.

By the Commission



ATTEST:



Executive Director

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Lexington, KY 40515-2011

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